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9  
10 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. R-2104

13 ROBERT M. VALENZUELA, R.C.P.  
14 24836 Tigris Lane  
Hemet CA 92544

**ACCUSATION**

15 Respiratory Care Practitioner License No. 18345

16 Respondent.  
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18 Complainant alleges:

19 **PARTIES**

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Respiratory Care Board of California,  
22 Department of Consumer Affairs.

23 2. On or about October 27, 1995, the Respiratory Care Board issued  
24 Respiratory Care Practitioner (R.C.P.) License No.18345 to ROBERT M. VALENZUELA,  
25 R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at  
26 all times relevant to the charges brought herein and will expire on October 31, 2008, unless  
27 renewed.

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4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3750 of the Code states:

“(f) Negligence in his or her practice as a respiratory care practitioner.”

7. Section 3755 of the Code states:

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8. California Code of Regulations, title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.

## COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states:

“In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the official custodian of the record or his or her designated representative shall be prima facie evidence of the actual costs of the investigation and prosecution of the case.”

10. Section 3753.7 of the Code provides that for purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees.

11. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation."

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Negligence)**

3 12. Respondent is subject to disciplinary action under section 3750,  
4 subdivision (f) of the Code, in that he committed negligence in his practice as a respiratory care  
5 practitioner, as more particularly alleged hereinafter:

6 (a) On or about March 26, 2002, patient U.G., a 60-year-old male, was  
7 admitted to St. Bernardine Medical Center in San Bernardino, California, with heart problems.

8 (b) On or about March 28, 2002, heart catheterization was performed to assess  
9 the extent of patient U.G.'s heart damage.

10 (c) On or about March 29, 2002, patient U.G. underwent four Coronary Artery  
11 Bypass Grafting [CABG] surgeries.

12 (d) Following surgery, patient U.G. was placed on a ventilator to augment his  
13 breathing.

14 (e) Orders were in place to slowly "wean or discontinue patient U.G. from the  
15 ventilator.

16 (f) On or about March 30, 2007, respondent began to wean patient U.G. off of  
17 the ventilator pursuant to the orders.

18 (g) At approximately 1:00 p.m., patient U.G. had a respiratory rate greater  
19 than 30 breaths per minute. Patient U.G.'s heart rate and blood pressure were elevated. Patient  
20 U.G. continued to have a low-grade fever and was coughing out abnormal amounts of colored  
21 sputum. Soft restraints had to be placed on patient U.G.'s hands as he was anxious, combative  
22 and/or aggressive.

23 (h) At approximately 2:10 p.m., respondent complied with orders from  
24 another doctor to discontinue mechanical ventilation by removing the breathing tube from patient  
25 U.G..

26 (i) At approximately 4:00 p.m., respondent delivered a positive pressure  
27 breathing treatment to patient U.G..

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1 (j) At approximately 4:30 p.m., while repositing patient U.G. during a bed  
2 linen change, patient U.G. suffered a cardiopulmonary arrest. Patient U.G.'s heart and breathing  
3 ceased. Patient U.G. required reinsertion of a breath tube or reintubation. Medications were  
4 delivered to restart the patient's heart rate.

5 (k) A blood sample [Arterial Blood Gas or ABG], taken at the time of arrest  
6 revealed acute respiratory and metabolic acidosis.

7 (l) Patient U.G. ultimately suffered a hypoxic/anoxic brain injury that resulted  
8 in a persistent vegetative state.

9 (m) Respondent committed acts of negligence in his care and treatment of  
10 patient U.G., which included, but was not limited to, the following:

11 (1) Failing to perform a post-extubation arterial blood gas; and

12 (2) Failing to communicate with the registered nurse or physician as to the  
13 declining cardio-pulmonary status of patient U.G..

#### 14 **SECOND CAUSE FOR DISCIPLINE**

##### 15 **(Unprofessional Conduct)**

16 13. Respondent is subject to discipline under section 3755 of the Code in that  
17 he engaged in unprofessional conduct, as more particularly alleged in paragraph 12, above, which  
18 is hereby incorporated and realleged as if set forth hereinafter.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 4 1. Revoking or suspending Respiratory Care Practitioner License No.18345,  
5 issued to ROBERT M. VALENZUELA, R.C.P.;
- 6 2. Ordering Robert M. Valenzuela, R.C.P. to pay the Respiratory Care Board  
7 the costs of the investigation and enforcement of this case, and if placed on probation, the costs  
8 of probation monitoring; and
- 9 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: September 25, 2007

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15 Original signed by Liane Zimmerman for:  
16 STEPHANIE NUNEZ  
17 Executive Officer  
18 Respiratory Care Board of California  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant  
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